

**STATE OF NEW MEXICO**  
**LEGISLATIVE EDUCATION STUDY COMMITTEE**

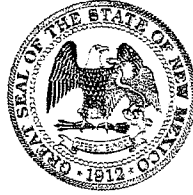
**REPRESENTATIVES**

Rick Miera, Vice Chair  
Perto "Bobby" J. Gonzales  
Amie C. Hall  
Dennis J. Roch  
Mimi Stewart  
Jack E. Thomas

**ADVISORY**

Andrew J. Barreras  
Ray Begaye  
Eleanor Chávez  
Nathan P. Cote  
Nora Espinoza  
Mary Helen Garcia  
Karen E. Giannini  
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**SENATORS**

Cynthia Nava, Chair  
Mary Jane M. García  
Gay G. Kernan  
Lynda M. Lovejoy

**ADVISORY**

Vernon D. Asbill  
Stephen H. Fischmann  
Howie C. Morales  
John Pinto  
Sander Rue  
William E. Sharer

**MINUTES**  
**LESC MEETING**  
**MAY 21-22, 2009**

Frances Ramírez-Maestas, Director  
David Harrell, PhD, Deputy Director

Representative Rick Miera, Vice Chair, called the Legislative Education Study Committee (LESC) meeting to order on Thursday, May 21, 2009 at 9:22 a.m., State Capitol, Room 322, Santa Fe, New Mexico.

The following LESC members were present:

Senators Cynthia Nava, Chair, Mary Jane M. García, Gay G. Kernan, and Lynda M. Lovejoy; and Representatives Rick Miera, Vice Chair, Dennis J. Roch, and Jack E. Thomas.

The following LESC advisory members were present:

Senators Vernon D. Asbill and Sander Rue; and Representatives Ray Begaye, Eleanor Chávez, Nathan P. Cote, Nora Espinoza, Mary Helen Garcia, and Sheryl Williams Stapleton.

**<> Approval of Agenda**

Upon a motion by Representative Roch, seconded by Senator Lovejoy, the committee unanimously approved the agenda as presented.

**HIGHER EDUCATION DEPARTMENT UPDATE AND OVERVIEW**

Representative Rick Miera, Vice Chair, recognized Dr. David Harrell, LESC staff, who introduced Dr. Peter L. White, Secretary-Designee of Higher Education, for an overview of the secretary's goals for higher education.

Referring to a committee handout, Dr. White outlined his areas of concentration for the Higher Education Department (HED) with a focus on connecting state educational policy to specific performance goals for each type of institution. To address this focus, he explained, HED proposes to pursue several initiatives.

- First, the department plans to convene a general education task force, composed of faculty, students, business leaders, legislators, and high school representatives to examine the current 35-credit-hour, content-based core curriculum requirement. Dr. White proposed

replacing the current core curriculum with a four-skill-set model focused on (1) critical or innovative thinking; (2) computation or statistical data analysis; (3) communication in a student's discipline; and (4) options for meeting course requirements, including a service learning class, a problem-based course, a research methodology class for advanced students, or international study abroad. The task force, he added, would consult with faculty curriculum committees and faculty senates to seek approval of a new core curriculum.

- Second, the department will request that the HED Funding Formula Task Force develop an Instruction and General (I&G) funding component that measures institutional performance in the current higher education funding formula. He explained that the current formula funds institutions on student credit hours in each level of instruction (lower, upper, and graduate) and three tiers based on the estimated, average cost of delivering instruction. Dr. White indicated that the proposed performance funding mechanism would distribute funds through a set of performance measures for each university and community college. Among its components, the proposed funding mechanism would:
  - utilize current performance measures established by HED and incorporate additional measures that are mission-specific;
  - define measures differently by type of institutions, i.e., research universities, comprehensive universities, and two-year colleges;
  - base funding on two years' worth of data (similar to the current I&G funding);
  - establish a target for each measure; and
  - determine an overall weighted performance percentage for each institution.
- Third, HED will collaborate with various institutions in providing choices to students for completing a four-year or graduate degree program. Dr. White reported that these efforts could include entering into joint agreements between four-year institutions and community colleges to facilitate the transfer of community college students into four-year institutions.

In conclusion, Dr. White said that he believes that HED should concentrate on solutions that can create improvements in the quality of higher education in New Mexico, including higher retention rates, increased degree completion rates, increased student satisfaction, and cost efficiencies. He also emphasized continued collaboration with the Public Education Department (PED) on data sharing and common student numbering systems and partnerships with all of the state's institutions from preschool to graduate school.

### **Committee Discussion:**

In response to a committee member's question regarding possible advantages of basing higher education funding on performance, Dr. White stated that, because the current funding formula is input driven – that is, it is based upon credit hour accumulation – colleges and universities are enticed to compete in their recruitment of students who may not be appropriately prepared for those colleges or universities. This circumstance, he added, results in funding institutions, particularly research universities, with students who have approximately a four in 10 chance of graduating in six years. The only way to break this cycle, he noted, is to begin with costs analyses of the various institutions and then to develop an appropriation formula that recognizes their

different missions and rewards them for making innovative changes that will produce students who are self-directed, skilled, educated, and ready to begin a career or further their education.

Several committee members expressed support for Dr. White's proposals regarding the funding formula and the core curriculum, noting that such changes were possibly overdue. Committee members also raised a number of other points, among them: the relationship between access to college and success in college; the need for less-problematic transitions between institutions, especially between two-year and four-year institutions and between tribal colleges and state colleges and universities; and the level of state financial support for higher education.

In response to a committee member's question regarding the secretary's discussions of his proposals with the presidents of the higher education institutions in the state, Dr. White indicated that he has developed a schedule during the summer that would allow him to meet with each president individually, the Council of University Presidents, the New Mexico Independent Community Colleges, and the New Mexico Association of Community Colleges.

A committee member requested that HED provide data on the success rates of students beginning their postsecondary education in a community college and then transferring to a four-year college.

### **LESC OFFICE AND STAFF TRANSITIONS**

Senator Cynthia Nava, LESC Chair, recognized Ms. Frances Ramírez-Maestas, LESC Director, for an update of operational changes in the LESC staff office.

Ms. Ramírez-Maestas reported that a number of initiatives have been implemented in the LESC staff office, including electronic (rather than manual) mailings of LESC documents; a revised LESC website and an upgrade of available links to LESC documents; access to LESC staff bill analyses on the Legislature's bill finder website beginning with the 2009 legislative session; and the creation of a "virtual" library by LESC staff. The virtual library, she noted, will allow current and future LESC staff access to current and historical information on initiatives examined by the committee. As an example, she stated, to respond to an inquiry about the pre-K initiative, LESC staff will be able to access the virtual library information and readily determine if and when the initiative was established in law; the provisions of the law; legislative appropriations by year; and the number of students served in the public school system and in the private sector through the Children, Youth and Families Department. This information, she emphasized, will be an invaluable resource for the committee and the committee staff.

With regard to LESC staff changes, Ms. Ramírez-Maestas noted the retirements of four LESC staff in FY 09:

- Dr. D. Pauline Rindone, LESC Director, effective September 30, 2008;
- Dr. Kathleen Forrer, Senior Fiscal Analyst, effective December 31, 2008;
- Ms. Mary Jo Bradley, Recording Secretary, effective April 30, 2009; and
- Ms. Eloise Gonzales-Okada, Office Manager, effective May 31, 2009.

These retirements, Ms. Ramírez-Maestas added, resulted in classification upgrades of four staff members:

- Dr. David Harrell to Senior Research Analyst II (from Senior Research Analyst I) but serving as LESC Deputy Director;
- Mr. Peter van Moorsel to Senior Fiscal Analyst I (from Fiscal Analyst);
- Ms. Alice Madrid to Office Manager (from Secretary); and
- Ms. Kate Wagner to Secretary (from Receptionist).

To conclude, Ms. Ramírez-Maestas reported that Mr. Philip Larragoite, Jr. had been hired, effective May 18, 2009, to fill the vacant receptionist position. She noted, however, that two staff analyst positions may remain vacant through the end of FY 09 and possibly into FY 10 primarily because of the uncertainty of cuts to the FY 10 budget and also because of office space issues.

## **SUMMARY OF 2009 PUBLIC SCHOOL-RELATED LEGISLATION AND FY 10 APPROPRIATIONS**

Senator Nava recognized Ms. Ramírez-Maestas, Dr. David Harrell, and Ms. Pamela Herman, LESC staff, for a summary of the public school support legislation and appropriations for FY 09 and FY 10, as well as other legislative initiatives of the 2009 legislative session.

Referring to a memorandum dated May 4, 2009, *Summary of Public Education-Related Legislation Passed by the 49<sup>th</sup> Legislature, 1<sup>st</sup> Session (after executive action)*, Ms. Ramírez-Maestas explained that this document and its attachments are prepared by LESC staff after every legislative session to provide legislators with a summary of legislative action related to public schools, including public school support and other education-related appropriations. These materials, she added, also reflect final actions of the Governor.

Ms. Ramírez-Maestas reported that, while legislative sessions generally consider legislative action and appropriations for the next fiscal year, the 2009 legislative session was unique in that the economic downturn not only limited programs and services for FY 10, but it also required scaling back the support of programs and services for FY 09. She explained that, in the early weeks before the 2009 session, FY 09 appropriations were reported to exceed projected revenue by more than \$450 million. To address this budget shortfall, she added, the Legislature took a four-prong approach to restoring solvency, an approach that comprised capital outlay reversions, appropriation reductions, fund transfers, and revenue enhancements. For public schools, she emphasized, these solvency measures resulted in a decrease of \$20.68 in the preliminary unit value for the current school year, from \$3,892.47 to \$3,871.79.

Before directing the committee's attention to Table 1, *Public School Support and Related Appropriations for FY 10*, Ms. Ramírez-Maestas explained two terms related to the discussion: (1) "above the line," which refers to items included in the State Equalization Guarantee (SEG) distribution and also identified with the public school funding formula; and (2) "below the line," which includes appropriations for categorical public school support and related appropriations to the Public Education Department (PED).

In total, she stated, the *General Appropriation Act of 2009* includes approximately \$2.3 billion in public school support and related recurring appropriations, a decrease of approximately \$225.4 million, or 8.8 percent, from the FY 09 appropriations. Among its distributions, the SEG provides:

- approximately \$12.2 million for enrollment growth and fixed costs;
- over \$12.0 million to provide for the 0.75 percent employer's contribution to the Educational Retirement Fund;
- \$1.0 million for school district costs related to assessment – costs associated with the printing, scoring, and reporting of mandated tests; and
- \$2.6 million to provide educational assistants statewide with a \$13,000 minimum annual salary, even though legislation to establish this minimum did not pass.

Ms. Ramírez-Maestas further reported that the SEG reduction of \$164.7 million shown in Table 1 will be replaced by federal stimulus funds appropriated in the federal *American Reinvestment and Recovery Act of 2009* (ARRA).

In dollars “below the line,” Ms. Ramírez-Maestas noted, the 2009 Legislature appropriated approximately \$130.4 million for categorical public school support, including:

- approximately \$103.2 million for school transportation operations;
- over \$16.2 million to the Instructional Material Fund; and
- \$1.5 million to help offset school district costs for dual credit textbooks and course supplies even though legislation to create a fund and establish a distribution methodology for these materials did not pass.

In related appropriations to PED, Ms. Ramírez-Maestas stated, the Legislature appropriated over \$48.2 million to support a variety of initiatives, among them:

- the PED budget;
- the administrative costs of the state's Regional Education Cooperatives;
- the K-3 Plus and New Mexico PreK;
- the Beginning Teacher Mentorship Program;
- Summer Reading, Math and Science Institutes;
- the New Mexico Cyber Academy;
- the Rural Revitalization Initiative;
- the Advanced Placement Program;
- After-school Enrichment Programs statewide;
- the Apprenticeship Assistance Program;
- the School Improvement Framework;
- Truancy Prevention Programs statewide;
- Breakfast for Elementary Students;
- the *Family and Youth Resource Act*; and
- the Graduation Reality and Dual-role Skills (GRADS) program, a teen pregnancy prevention initiative.

Ms. Ramírez-Maestas also noted that the *General Appropriation Act of 2009* includes over \$12.7 million for education-related initiatives, including:

- \$1.0 million to PED for assessment and test development;
- a total of \$10.0 million in emergency support for school districts;

- \$200,000 to the Higher Education Department (HED) to establish a School Leadership Institute, another instance in which legislation to create such an institute was introduced but did not pass;
- \$1.4 million for hosting, licensing, and maintenance costs of the Operating Budget Management System and the Student Teacher Accountability Reporting System at PED;
- \$100,000 to support the State High School Basketball Tournament; and
- \$50,000 to support a Student Summer Science Program at the New Mexico Institute of Mining and Technology.

To conclude, Ms. Ramírez-Maestas reported that three pieces of legislation were enacted during the 2009 legislative session that adjusted educator and public retirement plans. One of bills (HB 854, or Laws 2009, Chapter 127, *PERA Member & State Contribution Changes*), will shift 1.5 percent of FY 10 and FY 11 contributions to retirement plans from public employers to educational and other public employees if they earn more than \$20,000 annually. She also directed the committee to tables 3 and 4, which outline the public school capital outlay funding. This year, she emphasized, because of fiscal constraints, the measures were directed more toward reauthorizing previously funded projects than to funding new projects.

Dr. Harrell and Ms. Herman discussed legislative action in the 2009 session on LESC-endorsed legislation. Dr. Harrell reported that overall, 52 percent of the committee's bills passed; and three of those that did not pass still had their appropriations included in the *General Appropriation Act of 2009*, as Ms. Ramírez-Maestas had noted: \$2.6 million for a \$13,000 minimum annual salary for educational assistants; \$1.5 million for dual credit textbooks and course supplies, and \$200,000 to establish the School Leadership Institute. He noted that the committee notebooks included copies of correspondence from the LESC chairs to the Secretary of Public Education and the Secretary of Higher Education requesting their assistance in ensuring that the intent of the Legislature is fulfilled for these initiatives. Also included, he stated, is a copy of the Governor's House Executive Message No. 19, which acknowledges that, although the legislation did not pass to require the salary minimum for educational assistants, it is anticipated "that school districts will nonetheless use the money provided for this purpose in the SEG distribution to provide these critically needed salary increases." The message also states that the Secretary of Public Education has been instructed to monitor these minimum salaries and to provide a report to the Governor of any school district that fails to provide them.

Dr. Harrell then summarized some of the LESC-endorsed measures passed by the 2009 Legislature, among them initiatives to:

- ensure that educator licensure fees are collected and deposited according to law and to clarify how money from these fees may be used;
- offer a portfolio alternative to passage of the New Mexico Teacher Assessment for candidates who are deaf or hard of hearing;
- require that data about administrative licensure candidates be included in the Teacher Education Accountability Reporting System (TEARS);
- remove the requirement that Level 3-B applicants hold and teach under a Level 3-A license for one year and create a provisional Level 3-B license; and
- ensure a more timely distribution of beginning teacher mentorship program funds to school districts.

Ms. Herman highlighted other LESC-endorsed initiatives enacted into law, including legislation to:

- require postsecondary institutions, upon request from high schools or school districts, to provide reports of specified outcomes of their first-year students;
- require high school transcripts to include the PED-issued student identification (ID) number in order to ensure that postsecondary institutions use this ID number in postsecondary data systems;
- clarify the responsibility of public school districts, the state, PED, and parents for special education services provided in private training and residential treatment centers; and
- authorize PED to develop an alternative, voluntary six-year school accountability pilot project for elementary and middle schools based on a student growth model.

Notable pieces of LESC-endorsed legislation that did not pass, Ms. Herman reported, included bills to codify the requirements for a P-20 data system to collect, integrate, and report data from PED, HED, and other agencies; and to provide a new formula to fund public schools. She emphasized that, despite widespread support in school district testimony to the LESC throughout the 2008 interim and despite the efforts of a number of legislators during the session, the new funding formula remains a goal to be achieved rather than a mission accomplished.

To conclude, Ms. Herman reported that the 2009 Legislature passed LESC-endorsed legislation to convene a task force to study a range of issues related to public school transportation; however, the Governor vetoed the bill.

## **PROPOSED ACTIVITIES FOR THE 2009 LEGISLATIVE INTERIM**

### ***a. Approval of Proposed LESC 2009 Interim Meeting Schedule***

Ms. Ramírez-Maestas directed the committee's attention to the tentative LESC 2009 Interim Meeting Schedule and stated that the proposed dates had been reviewed with the Chair and Vice Chair for their concurrence. She noted that locations for the August, September, and October interim meetings were to be determined and that the remaining interim meetings list Santa Fe as the location.

At the request of Senator Kernan, the committee agreed that the August 17-19 interim meeting be held in Hobbs.

At the request of Senator Lovejoy, the committee agreed that the September 14-16 interim meeting be held in Gallup.

At the request of Representative Cote, the committee agreed that the October 19-21 interim meeting be held in Alamogordo.

On a motion by Representative Miera, seconded by Senator Kernan, the committee voted unanimously to approve the 2009 Interim Meeting Schedule as presented to include requested meeting locations.

***b. Approval of Proposed LESC 2009 Interim Workplan***

Ms. Ramírez-Maestas presented the committee with a draft 2009 LESC Interim Workplan, stating that the plan was reviewed and approved by both the Chair and Vice Chair. She reported that, when the committee approves the month-by-month 2009 interim work of the committee, LESC staff would develop an issues framework that provides an explanation of each topic to be examined. She emphasized that, rather than relying on outside presenters, LESC staff would continue to be responsible for the majority of the committee presentations. She then proceeded with a discussion of the issues listed in the workplan by month.

With regard to written reports listed for the October 2009 through January 2010 interim meetings, Ms. Ramírez-Maestas stated that these documents include statutorily required annual reports to the committee; memorials directing an agency or work group to provide a report to the committee during the interim; and reports requested by the committee, for example, the PED/OEA School Staff Shortages Report scheduled for the October interim meeting.

The committee began its review of the interim topics with a discussion of the proposed public school funding formula. Ms. Ramírez-Maestas reported that the June through December 2008 interim meetings included testimony to the committee on the proposed funding formula. The issues, she stated, relate to the use of the Educational Plan for Student Success (EPSS) as an accountability tool in the proposed formula and the revenue sources proposed to fund the formula. During the December 2009 interim meeting, she added, the committee is scheduled to examine and discuss recommendations for a sufficient and sustainable revenue source for the funding formula and accountability measures to ensure that the public is comfortable with this use of public money.

Senator Nava explained that the main focus of the committee in the interim should be broadening the base of support in the Legislature and the business community for the proposed funding formula, including consensus on a proposed revenue stream. In this regard, she emphasized, the LESC chairs sent a letter to the Legislative Finance Committee (LFC) chairs, with a copy to the presidents and CEOs of the New Mexico Business Roundtable for Educational Excellence, the Association of Commerce and Industry-NM, and the Greater Albuquerque Chamber of Commerce; requesting their financial expertise and joint collaboration to ensure that a sound, workable plan is presented to the 2010 Legislature.

Committee members made the following recommendations and requested that the following issues be included in the workplan either as single issues or as components incorporated into some of the issues already in the workplan:

- At the June meeting, include:
  - a discussion with representatives from the business community relating to the proposed funding formula;
  - a status report on Innovative Digital Education and Learning (IDEAL-NM) and Innovate-Education New Mexico; and
  - a report on the LFC program evaluation of investments in early childhood programs.



- At the August meeting, include (1) a review of the new graduation assessment; and (2) the alignment of short-cycle assessments and the New Mexico standards.
- At the September meeting, include a status report on Response to Intervention.
- At the October meeting, include (1) a review of approved school calendars in the review of FY 10 public school budgets; and (2) a staff report outlining “higher education implementation of P-20 provisions in law.”

After committee discussion and upon a motion by Senator Kernan, seconded by Senator García, the committee unanimously adopted the LESC 2009 Interim Workplan, with the understanding that the LESC Director has flexibility to amend the workplan to address staff workloads and issues that may require review by the committee.

***c. Legislative Finance Committee (LFC) Public Education-related Performance Reviews***

Senator Nava recognized Mr. Manu Patel, Deputy Director, and Mr. Charles Sallee, Program Evaluation Manager, LFC, to discuss public education-related performance reviews included in the 2009 LFC program evaluation workplan.

Referring to a committee handout, *Legislative Finance Committee Program Evaluation Workplan: 2009*, Mr. Patel reviewed the scope and timelines of three education-related reviews to be conducted during the 2009 interim as follows:

**1. School District Fund Reimbursement**

The focus of this project is to examine the timelines associated with the reimbursement by the Public Education Department (PED) of federal flow-through funds to school districts, to include a review of PED policies and procedures, best practices, and federal cash management requirements.

Estimated Completion: July 2009

**2. Local School Districts**

This project will focus on the efficiency and effectiveness of the operations, with an emphasis on resource allocation, of five selected school districts: Aztec Municipal Schools, Bernalillo Public Schools, Bloomfield Schools, Las Vegas City Public Schools, and West Las Vegas Public Schools.

Estimated Completion: September 2009

**3. Impact of Three-tiered Licensure on Student Performance and Update on the Achievement Gap**

Nearly complete, this evaluation examines the differences in performance on the New Mexico Standards Based Assessment among fourth and fifth grade students in relation to the licensure levels of their teachers. The review also considers whether the teachers earned their licenses through the professional development dossier process.

Estimated Completion: June 2009

Mr. Patel reported that the LFC's project reviews may also include an evaluation of issues concerning higher education faculty, including the effect of pending retirements, faculty retention, and the use of adjunct faculty; the funding of the school transportation program; and charter school oversight by PED and the Public Education Commission.

#### **Committee Discussion:**

In response to a committee member's question regarding collaboration between LFC and LESC staff, Ms. Ramírez-Maestas stated that, of the five local school districts selected for review, LESC staff suggested Aztec Municipal Schools and Bloomfield Schools, primarily because both districts have similar demographics and stable administrations. Dr. Harrell also described the limited involvement of the LESC staff in the study of the three-tiered system during the session and noted that he had accompanied the LFC program evaluator on one of 10 site visits.

### **DIRECTOR'S REPORT**

#### ***a. Approval of LESC Minutes for December 2008 and January 2009***

Upon a motion by Senator Kernan, seconded by Senator García, the committee unanimously approved the LESC minutes for December 2008 and January 2009.

#### ***b. Approval of LESC Financial Reports for January, February, and March 2009***

Ms. Ramírez-Maestas requested committee approval of the financial report for January 2009. She reported that the reports for February and March 2009 would need to be reconciled as it appears that the contractual services category does not accurately reflect expenditures for contract analysts employed during the legislative session.

Upon a motion by Senator Kernan, seconded by Senator García, the committee unanimously approved the LESC financial report for January 2009.

#### ***c. Approval of Tentative LESC Operating Budget for FY 10***

Referring the committee to a copy of the tentative FY 10 operating budget, Ms. Ramírez-Maestas reported that the budget reflected a 2.5 percent decrease. The reduction, she explained, consisted of a 1.5 percent decrease in the employer contribution rate for retirement to comply with provisions of legislation enacted in 2009 and a 1.0 percent vacancy savings on every agency's budget. She indicated, however, that staff from the Department of Finance and Administration and the Legislative Council Service did not agree on an additional 2.0 percent reduction to the LESC budget. For this reason, she requested that committee approval of the FY 10 budget be postponed until agreement is reached on the additional percentage reduction.

***d. Approval of LESC Auditor for FY 09***

Ms. Ramírez-Maestas reported that, on May 13, 2004, the LESC approved Mr. Robert J. Rivera, CPA, PC, to perform the LESC audits for FY 04 through FY 09, based on the multi-year proposal he submitted on April 28, 2004. She stated that, according to the State Auditor, the same independent public accountant can conduct the audit for six consecutive years and that pending committee approval, Mr. Rivera could continue to perform the LESC audit for FY 09, the final year of his multi-year proposal. Ms. Ramírez-Maestas reported that, if approved, the FY 09 audit by Mr. Rivera would cost \$5,500, including tax.

Upon a motion by Senator Kernan, seconded by Senator García, the committee unanimously approved Mr. Rivera to perform the LESC FY 09 audit.

***e. Correspondence***

Ms. Ramírez-Maestas reviewed several items of correspondence included in the committee members' notebooks, adding that these items are also included in the permanent file in the LESC office.

There being no committee discussion, Senator Nava, with the consensus of the committee, recessed the meeting at 4:15 p.m.

**MINUTES  
LESC MEETING  
MAY 22, 2009**

Senator Cynthia Nava, Chair, called the Legislative Education Study Committee (LESC) meeting to order on Friday, May 22, at 9:20 a.m., State Capitol, Room 322, Santa Fe, New Mexico.

The following LESC members were present:

Senators Cynthia Nava, Chair, Mary Jane M. García, and Gay G. Kernan; and Representatives Rick Miera, Vice Chair, and Jack E. Thomas.

The following LESC advisory members were present:

Senator Sander Rue; and Representatives Eleanor Chávez, Nora Espinoza, Mary Helen Garcia, Karen E. Giannini, Sheryl Williams Stapleton, and Shirley A. Tyler.

**EDUCATION-RELATED FUNDING FROM THE FEDERAL  
AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009 (ARRA)**

***a. K-12 Provisions in the ARRA***

Senator Nava recognized Ms. Pamela Herman, LESC staff, who introduced Mr. Michael Griffith, Senior School Finance Analyst, Education Commission of the States (ECS); Mr. Don Moya, Deputy Secretary, Finance and Operations, Public Education Department (PED); Ms. Pashella Reynolds-Forte, Acting Director, Administrative Services Division, PED; and Ms. Dona Cook, Team Leader, New Mexico Office of Recovery and Reinvestment, for a discussion relating to education-related funding from the federal *American Recovery and Reinvestment Act of 2009* (ARRA).

Ms. Herman directed the committee to background information included in the committee notebooks summarizing certain education-related provisions of ARRA, including US Department of Education (USDE) guidance; guidelines for the distribution and expenditure of State Fiscal Stabilization, Title I, and IDEA, Part B funds; and estimated allocations for public education and higher education.

Mr. Griffith reported that the overall goals of ARRA are to stimulate the economy in the short term and to invest in education and other essential public services to ensure the long-term economic health of the nation. He stated that four principles guide the distribution and use of ARRA funds:

1. Spend funds quickly to save and create jobs.
2. Improve student achievement through school improvement and reform; close the achievement gap; help students from all backgrounds achieve high standards; and address four reform goals:

- a. **Standards and assessments:** make progress toward rigorous college- and career-ready standards and high-quality assessments that are valid and reliable for all students, including English language learners and students with disabilities;
  - b. **Data systems:** establish pre-K to college and career data systems that track progress and foster continuous improvement;
  - c. **Teacher effectiveness:** make improvements to teacher effectiveness and the equitable distribution of qualified teachers for all students; and
  - d. **Support for lowest performing schools:** provide intensive support and effective interventions for the lowest performing schools, particularly students who are most in need.
3. Ensure transparency, reporting, and accountability.
  4. Invest one-time ARRA funds thoughtfully to minimize the “funding cliff.”

Using a committee handout, *American Reinvestment & Recovery Act, New Mexico Legislature*, Mr. Griffith reported that, on a national level, ARRA provisions basically make available three “pots” of funding for public education: (1) \$28.8 billion for increases in current programs; (2) \$48.6 billion in State Fiscal Stabilization Funds (SFSF) for new programs; and (3) \$5.9 billion in competitive grants.

Mr. Griffith noted that, based on data provided by the USDE and the US Department of Agriculture (USDA), New Mexico is expected to receive estimated amounts in education-related ARRA funds as enumerated below.

***Increases in current programs (funds distributed to school districts)***

- **Title I, Part A:** \$80.8 million in two distributions (50 percent on April 1, 2009 and the remaining 50 percent between July and September 2009).
- **School Improvement Grants:** \$20.2 million to be distributed in the fall of 2009 with an approved application.
- **Impact Aid:** A total of \$4.2 million in school construction grants to six school districts: Central Consolidated Schools; Cuba Independent Schools; Dulce Independent Schools; Gallup-McKinley County Public Schools; Jemez Valley Public Schools; and Zuni Public Schools.
- ***Individuals with Disabilities Education Improvement Act (IDEA):***
  - **Part B, Grants to States:** \$86.6 million in two distributions (50 percent on April 1, 2009 and the remaining 50 percent between July and September 2009);
  - **Part B, Preschool Grants:** \$3.1 million in two distributions (50 percent on April 1, 2009 and the remaining 50 percent between July and September 2009);
  - **Part C, Grants to Infants and Families:** \$2.9 million in two distributions (50 percent on April 1, 2009 and the remaining 50 percent to be distributed at a later date);
  - **Educational Technology State Grants:** \$5.1 million on April 1, 2009;
  - **Vocational Rehabilitation State Grants:** \$4.4 million in two distributions (50 percent on April 1, 2009 and the remaining 50 percent at a later date);
  - **Independent Living Services:** \$242,913; and
  - **Education for Homeless Youth:** \$548,313.

### ***Funding for new programs from the State Fiscal Stabilization Fund (SFSF)***

- **Education funding:** \$260.4 million with contingencies, among them:
  - to receive these funds the state must fund K-12 and higher education at or above school year 2005-2006 funding levels;
  - any funding above FY 08 or FY 09 levels (whichever is higher) must be distributed in Title I allocations;
  - funds must be distributed by the state to local districts through the funding formula; and
  - 81.8 percent of the funds must be devoted to early learning, K-12, and higher education, while the remaining 18.2 percent may be used for education (including school modernization), public safety, or other governmental services.

Regarding competitive grant funding, Mr. Griffith described two sources of funding: (1) Race to the Top state incentive grants; and (2) the Innovation Fund. He said that USDE will use the four education reforms as the main criteria for awarding \$4.35 billion in Race to the Top grants. He noted that awards will be distributed to 10 to 15 states in two rounds: fall 2009 and spring 2010. Regarding the Innovation Fund, Mr. Griffith reported that \$650 million will be distributed on a competitive basis to districts and nonprofit groups with strong track records of results.

Addressing the level of state government control of ARRA funds, Mr. Griffith indicated that states have little or no control over funds available for increases in current programs because these funds flow directly to school districts through a state's existing funding formula. He said that state control will vary in the case of the SFSF and competitive grants.

To conclude, Mr. Griffith stated that 16 states have had their ARRA applications approved by USDE. While the original intent of ARRA dollars is to allow states to budget these funds through FY 10 to FY 11, a review of the 16 approved states indicates that only 7.4 percent of SFSF dollars will be expended in FY 11. For FY 08 to FY 09, these states have budgeted 43.9 percent of SFSF dollars and the remaining 48.7 percent in FY 09 to FY 10. He added that, contrary to a belief that higher education might be left out of SFSF funding, the approved states have budgeted nearly 19 percent for higher education spending.

- b. Stabilization Funds in the State Equalization Guarantee (SEG) Distribution; and***
- c. Status of Title I and Individuals with Disabilities Education Improvement Act (IDEA) Allocations***

Using a committee handout, *New Mexico Education and The American Recovery and Reinvestment Act*, Mr. Moya reported that the state is eligible to receive:

- \$318.3 million in stabilization funds; however, of these funds:
  - 82 percent, or \$260.4 million, must be used to restore, through the state's funding formula, the level of support provided to the greater of the state FY 08 or FY 09 level. For FY 10, \$164.7 million (of the \$260.4 million) will be allocated to school districts and charter schools through the State Equalization Guarantee (SEG), or public school funding formula. In accordance with ARRA guidance, Mr. Moya noted, each school

- district and charter school will be required to complete an application for stabilization funds prior to distribution of the dollars in the funding formula; and
- 18 percent, or \$57.9 million, can be allocated by the Executive for public safety and other governmental services.

- Approximately \$208.6 million in targeted P-12 funding for a number of programs, including Title I grants to school districts and for school improvement; IDEA, Part B and C; education technology; education for homeless children and youth; and child nutrition.
- Over \$4.6 million in target funds to support vocational rehabilitation programs.

To conclude, Mr. Moya indicated that, for the committee's review, the handout included a document outlining the FY 10 allocation of federal SEG stimulus funding by district and charter school.

Ms. Reynolds-Forte summarized Title I and IDEA stimulus funding by referring the committee to charts itemizing allocations to districts and charter schools. She stated that, for Title I, 50 percent of the entire award, or \$40.8 million, is available in FY 09. She reported that 96 percent of this amount, or \$38.7 million, has been allocated to districts. The remaining 4.0 percent, or \$1.5 million, she added, will be available to eligible school districts and charter schools for schools in corrective action or restructuring 1 or 2. Allocation of these funds, she reported, will be based on a school district's current approved Title I application and distributed on a reimbursement basis.

In IDEA funds, Ms. Reynolds-Forte reported that 50 percent, or \$47.2 million, is available in FY 09. The allocation and distribution of IDEA funds, she added, is the same methodology used for Title I funds.

#### ***d. Overview of New Mexico Office of Recovery and Reinvestment***

Before outlining ARRA funds available to New Mexico, Ms. Cook explained that the New Mexico Office of Recovery and Reinvestment is a temporary office created by Governor Richardson through Executive Order to:

- facilitate compliance with the requirements of ARRA;
- identify available funding;
- keep stakeholders informed of funding opportunities; and
- ensure New Mexico competes effectively for funds.

Among accountability and oversight steps taken to date, Ms. Cook stated, the New Mexico office:

- is working with the Department of Finance and Administration (DFA) to ensure that New Mexico has a separate fund to budget, track, account for, and monitor all ARRA dollars coming to the state to meet federal reporting requirements and facilitate auditing;
- is providing guidance to state agencies; and
- has initiated a planning process to ensure that:

- administrative cost budgets, including term full-time-equivalent positions, are approved, tracked, and prudently minimized to maximize available funding;
- state agency strategic and program plans address federal guidance;
- funding processes are transparent;
- projects are “shovel-ready”; and
- mechanisms are in place to prevent fraud, waste, and abuse.

Ms. Cook also noted outreach and communications efforts of the New Mexico office, including:

- regular communication with state agencies;
- seven local community outreach sessions, including two summits in Albuquerque and Las Cruces;
- a tribal outreach session with approximately 20 tribes; and
- the development of a New Mexico Office of Recovery and Reinvestment website ([www.recovery.state.nm.us](http://www.recovery.state.nm.us)).

Directing the committee to the handout, *American Recovery and Reinvestment Act: Benefits and Investment in New Mexico*, Ms. Cook highlighted estimated available ARRA funding, to include:

- \$545.1 million for Medicaid;
- \$470.8 million for public education;
- \$418.4 million for environmental needs;
- \$369.9 million to address infrastructure;
- \$296.6 million for transportation;
- \$244.7 million in benefits to individuals and families;
- \$191.4 million for higher education;
- \$115.3 million for unemployment benefits and services;
- \$82.3 million for energy efficiency;
- \$57.9 million in other government services; and
- \$32.1 million for public safety.

In competitive grant opportunities, Ms. Cook stated, the New Mexico office is tracking a total of \$53.7 billion available to all states.

To conclude, Ms. Cook reported that:

- on April 1, 2009, USDE made 67 percent of ARRA funds available upon application approval;
- July 1, 2009 is the application deadline;
- PED, the Higher Education Department (HED), and DFA are in the process of completing New Mexico’s application; and
- beginning July 1, 2009, education stabilization funds are to be distributed monthly to school districts based on the FY 10 funding formula distribution.



## **Committee Discussion:**

In response to a committee member's question regarding whether schools are ready for the detailed reporting requirements in the ARRA, Mr. Moya said that school districts are aware of most of the data that will be required. He stated that PED will capture school data primarily through the Student Teacher Accountability Reporting System (STARS) and report to the USDE. Mr. Moya noted that the federal stimulus money does not include administrative funding and that PED may need approximately \$3.0 million to upgrade its reporting systems.

In response to a committee member's question on if the state can be reimbursed from the ARRA for investing now in the P-20 data system, Mr. Griffith said that federal grants require federal funds to be used for new spending, meaning that a state would not be allowed to build a data system and request reimbursement.

In response to a committee member's question regarding who is responsible if stimulus funds are inappropriately spent by school districts, Mr. Griffith said that school districts will be directly responsible to the federal government.

In response to a committee member's question about if, after the state applies for a specific project, a school district may change priorities, Mr. Griffith said that school districts have flexibility on the use of these funds and that districts can change Title I and IDEA priorities if the spending is within the specific program parameters.

In response to a committee member's question regarding the flow of federal funds to school districts, Mr. Moya clarified that New Mexico is a reimbursement state. He said Title I and IDEA funds will go to PED first and then be distributed to school districts.

In response to a committee member's question regarding the education reform to improve equitable distribution of qualified teachers, Mr. Griffith explained that nationwide, within districts and between districts, there is an uneven distribution; the lowest income districts have the fewest highly qualified teachers. He said there must be a state plan in place including what action is being taken to more evenly distribute qualified teachers. In response to the member's question if the state is tracking highly qualified teachers, the Chair recognized Dr. Peter Winograd, Director, Office of Education Accountability (OEA), who reported that New Mexico is tracking the distribution of highly qualified teachers in high-poverty and low-poverty schools in New Mexico; and he said there is inequity in some districts in New Mexico. In response to the member's question on how to enforce equity in the distribution of highly qualified teachers, Dr. Winograd described ways to increase their numbers through incentives (raises and salary bonuses); professional development; and outreach, especially in rural areas, to help teachers who do not meet the highly qualified criteria.

On the future of federal funding for K-12 education, Mr. Griffith said that increases in IDEA funds made possible through the ARRA may become permanent; Title I increases may or may not continue; and SFSF funds are not expected to continue after school year 2010-2011.

There was discussion regarding IDEA funding guidelines, specifically PED's denial of some districts' applications to expend up to 50 percent of the funds to supplant lost state revenues. Ms. Denise Koscielniak, Special Education Director, PED, stated that such requests were denied

based on USDE guidance stating that districts not meeting IDEA compliance targets were prohibited from reducing their maintenance of effort (MOE) for special education.

In response to a committee member's question regarding the state's ability to comply with required state assurances to receive ARRA funds, Ms. Cook responded that the state is in a good position to comply with all of the requirements with the exception of the P-20 data system.

### **ADJOURNMENT**

There being no further business, with the consensus of the committee, Senator Nava adjourned the LESC meeting at 11:52 a.m.

CSN Chairperson  
9-14-09 Date